

**Last Updated: August 6, 2019**

The primary purpose of the U.S Department of Education’s State Authorization Rule is to require institutions offering programs through distance education (or correspondence) to be authorized to offer education by each state in which they enroll students, if such authorization is required by the state.<sup>1</sup> The rule also imposes significant student disclosure requirements on institutions offering online programs, especially where graduates of those programs will seek some form of licensure (e.g., teachers, health professionals). Below, we provide a chart detailing the noteworthy events that have occurred to date in the Department’s efforts to create a final State Authorization Rule. The events listed below the bolded black line are speculative.

State Authorization: Rulemaking Timeline	
Date	Rulemaking Event
Oct. 29, 2010	ED publishes its <a href="#">2010 State Authorization Rule</a> at 34 CFR 600.9(c), which covers state authorization requirements for distance education programs.
July 12, 2011	U.S. District Court for DC <a href="#">vacates</a> the 2010 State Authorization rule on procedural grounds.
June 5, 2012	U.S. District Court of Appeals for DC <a href="#">affirms</a> the District Court decision to vacate the 2010 State Authorization Rule.
Feb. - April 2014	ED carries out a negotiated rulemaking to create a new State Authorization Rule. Consensus is not achieved.
July 25, 2016	ED publishes its <a href="#">proposed 2016 State Authorization Rule</a> in the Federal Register.
Dec. 19, 2016	ED publishes its <a href="#">final 2016 State Authorization Rule</a> in the Federal Register, with an effective date of July 1, 2018.
May 25, 2018	ED <a href="#">proposes</a> to delay significant elements of the 2016 State Authorization Rule and seeks public comment.
July 1, 2018	Original effective date of the 2016 State Authorization Rule.
July 3, 2018	ED publishes a <a href="#">final rule</a> delaying until July 1, 2020, those elements of the 2016 State Authorization Rule that concern state authorization of distance education. ED does <u>not</u> delay those elements of the Rule concerning authorization of foreign additional locations.
July 30, 2018	ED <a href="#">announces</a> a rulemaking to create a new Accreditation and Innovation Rule, and indicates that a new State Authorization Rule will be negotiated as part of the process.
Aug. 23, 2018	The National Education Association and the California Teachers Association <a href="#">sue</a> ED, asserting that the delay of the 2016 State Authorization Rule violated the APA.
Jan. - Apr. 2019	ED carries out a negotiated rulemaking to create a new Accreditation and Innovation Rule, and a 2019 State Authorization Rule is formulated as part of that effort. Consensus is achieved, obligating ED to use the agreed upon draft consensus language in its proposed rules.
April 26, 2019	U.S. District Court for Northern CA rules that ED violated the APA when it delayed the 2016 State Authorization Rule, and vacates the delay effective May 26, 2019. See <i>National Education Association v. DeVos</i> , No. 18-cv-05173-LB (N.D. CA April 26, 2019).
June 12, 2019	ED publishes its <a href="#">proposed 2019 State Authorization Rule</a> in the Federal Register (as part of its proposed Accreditation and Innovation Rule).

<sup>1</sup> Schools lacking authorization in a state would be prohibited from awarding federal financial aid to students in the unauthorized location.

## State Authorization: Rulemaking Timeline

Date	Rulemaking Event
July 29, 2019	ED acknowledges that 2016 State Authorization Rule is effective in Federal Register <a href="#">announcement</a> , and releases <a href="#">guidance document</a> indicating that students residing in California receiving distance education or correspondence courses from out-of-state public or non-profit institutions are ineligible for title IV programs.
August 2, 2019	ED issues a formal acknowledgement of California's efforts to comply with the 2016 Rule and confirmed that California students will not experience an interruption in their Title IV student aid.
Oct. 2019	ED publishes its final 2019 State Authorization Rule in the Federal Register (as part of its final Accreditation and Innovation Rule), with an effective date of July 1, 2020.
July 1, 2020	Effective date of the 2019 State Authorization Rule.

### **Disclaimer**

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